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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,920	06/24/2002	John N Ousterhout	102035-201	7197

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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN, CT 06508-1832

EXAMINER

HARTMANN, GARY S

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,920

Applicant(s)

OUSTERHOUT ET AL.

Examiner

Gary Hartmann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003 and 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-12 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Invention I in Paper No. 10 is persuasive; therefore, the restriction has been withdrawn.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the length of the upper member less than the length of the lower member (claim 4) must be shown or the feature canceled from the claims. No new matter should be entered.
3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 14-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Borehag (U.S. Patent 3,738,599).

Borehag discloses a device having first and second support members (3, 4) with a flexible barrier (Figure 1, for example) therebetween. There are linking members (11, 12) extending between upper and lower support members (7, 8, 9, 10) and angled relative to a barrier median and the device could function in the manner claimed.

The linking members do not cross over one another.

No linking members are angled inwardly as it extends from the lower to the upper member (Figure 2, for example).

Regarding claim 18, when the outside members (15, Figure 1) are considered linking members, claim limitations are met.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 5-10, 18 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borehag, as applied above. The distances from the median are not disclosed; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the distances as claimed in order to effectively capture a vehicle.

Regarding claims 6 and 8, Borehag does not teach the material of construction as claimed; however, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to have used the material as claimed in order to obtain a specific structural strength as desired in a particular application.

Regarding claim 7, a vehicle could pass over the device of Borehag in an undeployed state.

Regarding claim 10, the lower barrier member may lie atop the pathway in an unsuspended state.

8. Claims 1, 3, 5-10, 12, 14, 15, 17, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uotila (U.S. Patent 5,310,277).

Uotila discloses a device including support members (6) with a flexible barrier (1) extending therebetween. There are upper (7) and lower (8) barrier members extending horizontally across the pathway. There are a plurality of linking members (9) coupled to and extending between the upper and lower members at an angle other than parallel to a median of the barrier (Figure 8, for example). The device is constructed such that a vehicle engaging the device could act in the manner described (Figure 10, for example). The distances from the median are not disclosed; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the distances as claimed in order to effectively capture a vehicle, in accordance with the invention of Uotila.

Regarding claims 6 and 8, Uotila does not teach the material of construction as claimed; however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the material as claimed in order to obtain a specific structural strength as desired in a particular application.

Regarding claim 7, a vehicle could pass over the device of Uotila in an undeployed state.

Regarding claim 10, the lower barrier member may lie atop the pathway.

Regarding claim 12, cars (unlabeled, see Figures 4-7) meet the recitation of a propulsion system.

The linking members are disposed at the within the range of angles claimed (Figure 8, for example).

Regarding claim 21, there are linking members which do not cross over each other intermediate the upper and lower members. Note that although there is crossing, that there are some which don't cross over each other meets claim recitations.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uotila as applied above, and further in view of Alavoine et al. (U.S. Patent 4,456,205).

Uotila does not appear to have the different lengths. Alavoine et al. teaches a barrier having the configuration claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a upper member having a length less than a lower member in order to obtain an apparatus suitable for a desired application, in accordance with the teaching of Alavoine et al.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uotila as applied above, and further in view of Terio (U.S. Patent 4,576,507).

Uotila does not teach the cover. Terio teaches enclosing a barrier in an enclosure as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the device of Uotila with the enclosure of Terio in order to solve aesthetic problems while making an area secure, as taught by Terio.

Allowable Subject Matter

11. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments filed August 22, 2003 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

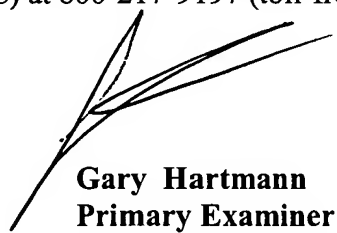
13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 703-305-4549. The examiner can normally be reached on Monday through Friday, 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary Hartmann
Primary Examiner
Art Unit 3671

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